



[3510-16-P]

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

37 CFR Part 1

[Docket No.: PTO-P-2013-0007]

RIN 0651-AC85

Changes to Implement the Patent Law Treaty; Correction

AGENCY: United States Patent and Trademark Office, Department of Commerce.

ACTION: Final rule; correction.

SUMMARY: The United States Patent and Trademark Office (Office) published in the Federal Register on October 21, 2013, a final rule revising the rules of practice in patent cases for consistency with the changes in the Patent Law Treaty (PLT) and provisions of the Patent Law Treaties Implementation Act of 2012 (PLTIA) that implement the PLT (PLT Final Rule). The PLT Final Rule as published in the Federal Register inadvertently omits the small and micro entity fee amounts for certain petitions and contains a cross-reference to a section that has been removed. This document corrects the omission and removes the cross-reference in the PLT Final Rule as published in the Federal Register.

EFFECTIVE DATE: December 18, 2013.

FOR FURTHER INFORMATION CONTACT: Robert W. Bahr, Senior Patent Counsel, Office of Patent Examination Policy, at (571) 272-8090.

SUPPLEMENTARY INFORMATION: The United States Patent and Trademark Office (Office) published in the Federal Register on October 21, 2013, a final rule revising the rules of practice in patent cases for consistency with the changes in the Patent Law Treaty (PLT) and provisions of the Patent Law Treaties Implementation Act of 2012 (PLTIA) that implement the PLT. See Changes to Implement the Patent Law Treaty, 78 FR 62367 (Oct. 21, 2013). The PLT Final Rule as published in the Federal Register inadvertently omits the small and micro entity fee amounts for petitions referring to the petition fee set forth in 37 CFR 1.17(g). See Changes to Implement the Patent Law Treaty, 78 FR at 62395. The PLT Final Rule as published in the Federal Register also amends 37 CFR 1.197 to refer to 37 CFR 90.3 rather than former 37 CFR 1.304 for the time for appeal or for commencing a civil action. The judicial review provisions of 37 CFR 1.302 through 1.304 were replaced by 37 CFR part 90 in September of 2012, but 37 CFR 1.197(a) as published in the Federal Register inadvertently retains a cross-reference to 37 CFR 1.304. See Changes to Implement the Patent Law Treaty, 78 FR at 62382-83 and 62406. This document corrects 37 CFR 1.17 to include the small and micro entity fee amounts for petitions referring to the petition fee set forth in 37 CFR 1.17(g) and removes the cross-reference to former 37 CFR 1.304 from 37 CFR 1.197(a).

In rule FR Doc. 2013-24471, published on October 21, 2013 (78 FR 62367), make the following corrections:

§ 1.17 [Correction]

1. On page 62395, second and third columns, revise amendatory instruction 9 and its amendatory text to read as follows:

9. Section 1.17 is amended by revising paragraphs (f), (g), (m), and (p), adding new paragraph (o), and removing and reserving paragraphs (l) and (t) to read as follows:

§ 1.17 Patent application and reexamination processing fees.

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(f) For filing a petition under one of the following sections which refers to this paragraph:

By a micro entity (§ 1.29).....	\$100.00
By a small entity (§ 1.27(a)).....	\$200.00
By other than a small or micro entity.....	\$400.00

§ 1.36(a)—for revocation of a power of attorney by fewer than all of the applicants.

§ 1.53(e)—to accord a filing date.

§ 1.182—for decision on a question not specifically provided for in an application for patent.

§ 1.183—to suspend the rules in an application for patent.

§ 1.741(b)—to accord a filing date to an application under § 1.740 for extension of a patent term.

(g) For filing a petition under one of the following sections which refers to this paragraph:

By a micro entity (§ 1.29).....	\$50.00
By a small entity (§ 1.27(a)).....	\$100.00
By other than a small or micro entity.....	\$200.00

§ 1.12—for access to an assignment record.

§ 1.14—for access to an application.

§ 1.46—for filing an application on behalf of an inventor by a person who otherwise shows sufficient proprietary interest in the matter.

§ 1.55(f)—for filing a belated certified copy of a foreign application.

§ 1.57(a)—for filing a belated certified copy of a foreign application.

§ 1.59—for expungement of information.

§ 1.103(a)—to suspend action in an application.

§ 1.136(b)—for review of a request for extension of time when the provisions of § 1.136(a) are not available.

§ 1.377—for review of decision refusing to accept and record payment of a maintenance fee filed prior to expiration of a patent.

§ 1.550(c)—for patent owner requests for extension of time in ex parte reexamination proceedings.

§ 1.956—for patent owner requests for extension of time in inter partes reexamination proceedings.

§ 5.12—for expedited handling of a foreign filing license.

§ 5.15—for changing the scope of a license.

§ 5.25—for retroactive license.

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(l) [Reserved]

(m) For filing a petition for the revival of an abandoned application for a patent, for the delayed payment of the fee for issuing each patent, for the delayed response by the patent owner in any reexamination proceeding, for the delayed payment of the fee for maintaining a patent in force, for the delayed submission of a priority or benefit claim, or for the extension of the twelve-month (six-month for designs) period for filing a subsequent application (§§ 1.55(c), 1.55(e), 1.78(b), 1.78(c), 1.78(e), 1.137, 1.378, and 1.452):

By a small entity (§ 1.27(a)) or micro entity (§ 1.29).....	\$850.00
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By other than a small or micro entity.....	\$1,700.00
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(o) For every ten items or fraction thereof in a third-party submission under § 1.290:

By a small entity (§ 1.27(a)) or micro entity (§ 1.29).....	\$90.00
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By other than a small entity.....	\$180.00
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(p) For an information disclosure statement under § 1.97(c) or (d):

By a micro entity (§ 1.29).....	\$45.00
By a small entity (§ 1.27(a)).....	\$90.00
By other than a small or micro entity.....	\$180.00

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(t) [Reserved]

§ 1.197 [Correction]

2. On page 62406, second and third columns, revise amendatory instruction 32 and its amendatory text to read as follows:

32. Section 1.197 is revised to read as follows:

§ 1.197 Termination of proceedings.

(a) Proceedings on an application are considered terminated by the dismissal of an appeal or the failure to timely file an appeal to the court or a civil action except:

- (1) Where claims stand allowed in an application; or
- (2) Where the nature of the decision requires further action by the examiner.

(b) The date of termination of proceedings on an application is the date on which the appeal is dismissed or the date on which the time for appeal to the U.S. Court of Appeals for the Federal Circuit or review by civil action (§ 90.3 of this chapter) expires in the absence of further appeal or review. If an appeal to the U.S. Court of Appeals for

the Federal Circuit or a civil action has been filed, proceedings on an application are considered terminated when the appeal or civil action is terminated. A civil action is terminated when the time to appeal the judgment expires. An appeal to the U.S. Court of Appeals for the Federal Circuit, whether from a decision of the Board or a judgment in a civil action, is terminated when the mandate is issued by the Court.

Dated: December 5, 2013.

Margaret A. Focarino
Commissioner for Patents,
Performing the functions and duties of the Under Secretary
of Commerce for Intellectual Property and Director of the
United States Patent and Trademark Office

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